REMARKS

By this amendment, claims 1-3, 5, 7-11, 13, 15, 21 and 23-28 are pending, in which claims 4, 6, 14, 16, and 22 are canceled without prejudice or disclaimer, and claims 1, 8-12, and 18-21 are currently amended. No new matter is introduced.

The Office Action mailed June 28, 2010 rejected claims 1, 3, 5, 11, 13, 15, 21, and 25 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, rejected claims 1-28 under 35 U.S.C. § 112, second paragraph as being indefinite, rejected claims 1-28 under 35 U.S.C. § 102(e) as being anticipated by *Doss et al.* (US 20030046296 A1).

REJECTION UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

Applicant respectfully traverses the rejection.

In the Office Action, the Examiner asserts that claims 1, 3, 5, 11, 13, 15, 21, and 25 claim a first and a second setting that are not disclosed in original application (see, page 2 lines 11-13 of the Office Action). Applicant notes, however, that the first and the second setting are fully supported by the original application. For instance, paragraph 19 of the Specification describes availability setting associated with profiles; such as general profile and silent profile. Paragraph 21 of the Specification describes an availability setting in respect of each activity and application, such as a game, a radio application, a WAP browser, a calculator, a stopwatch, etc (See, paragraph [0021]).

Accordingly, Applicant respectfully requests the rejection under 35 U.S.C. § 112, first paragraph be withdrawn.

REJECTION UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

In order to reduce issues for potential appeal, Applicant has amended independent claims 1 by replacing "apparatus" in line 5 with "terminal," and replacing "mobile communication terminal" in line 11 with "terminal." Applicant also has amended claims 8-10 and 21 in a similar way. Applicant notes that the amendment overcomes the rejection under 35 U.S.C. §112, second paragraph and therefore solicits withdrawal of the rejection.

REJECTION OF CLAIMS 1-28 UNDER 35 U.S.C. § 102(e) BY *DOSS ET AL.*

This rejection is respectfully traversed. In order to expedite prosecution, Applicant has amended independent claims 1, 11, and 21. As amended, claim 1 recites, among other features: "**select, without input from a user,** a more restrictive setting based on a comparison of the first setting and the second setting." (Emphasis added).

Applicant stresses that the factual determination of lack of novelty under 35 U.S.C. §102 requires **the identical disclosure in a single reference of each element of a claimed invention**, as those elements are set forth in the claims, such that the claimed invention is placed into the recognized possession of one having ordinary skill in the art. *Therasense, Inc. v. Beckton, Dickenson and Company,* 593 F.3d 1289 (Fed. Cir. 2010); *Praxair, Inc. v. ATMI, Inc.*, 543 F.3d 1308, (Fed. Cir. 2008); *Dayco Prods., Inc. v. Total Containment, Inc.*, 329 F.3d 1358 (Fed. Cir. 2003); *Crown Operations International Ltd. v. Solutia Inc.*, 289 F.3d 1367 (Fed. Cir. 2002); *Candt Tech Ltd. v. Resco Metal & Plastics Corp.*, 264 F.3d 1344 (Fed. Cir. 2001). Further, as a matter of procedural due process of law, the Examiner is required to specifically identify where in an applied reference is alleged to disclose each and every feature of a claimed invention, particularly when such is not apparent. *In re Rijckaert, 9 F.3d 1531 (Fed. Cir. 1993);*

Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452 (Fed. Cir. 1984).

The Office Action asserts that *Doss et al.* teach previously recited features, "selecting a more restrictive setting based on a comparison of the first setting and the second setting," by stating that "¶:8, 53, Doss et al. teaches selection is made by user of going [from one] status setting to another, one of them [being] more restrictive, however, this is a user choice" (*see*, page 4 line 21 through page 5 line 2 of the Office Action).

Paragraph [0008] of *Doss et al.*, cited in the Office Action, merely describes that a user can select a particular status, such as "active," "away," "do not disturb," "mobile," and "offline" (*see*, paragraph [0008] of *Doss et al.*). Paragraph [0053] of *Doss et al.*, also cited in the Office Action, describes an update request. More specifically, the step 406 "illustrates status engine searching the status table for an entry having its 'sent' indicator cleared and where the current time is greater than or equal to an entry's start time and before the entry's end time" (*see*, paragraph [0053] of *Doss et al.*). In other words, the updating system merely compares the time of two sets of data. By contrast, the recited feature is related to a selection based on "**a comparison of the first setting and the second setting**" (emphasis added). As claimed, the first setting is associating with commencement of an activity or running of an application and the second setting is associated with selected operating profile. *Doss et al.* fails to disclose the comparison in a manner recited in the claim.

More specifically, *Doss et al.* does not disclose or even suggest "**select, without input from a user,** a more restrictive setting **based on a comparison of the first setting and the second setting**." (Emphasis added). Based on the above statement in the Office Action, "Doss et al. teaches selection is made by user of going f[ro]m [one] status setting to another, one of

them [being] more restrictive, however, **this is a user choice**" (emphasis added), the Examiner acknowledges that *Doss et al.* requires a user choice. Thus, it is clear that *Doss et al.* does not disclose or even suggest a selection, without input from a user, based on a comparison of the first setting and the second setting.

Again, 35 U.S.C. §102 requires **the identical disclosure in a single reference of each element of a claimed invention**. As explained above, *Doss et al.* does not disclose the above recited claim features identically. Therefore, Applicant respectfully requests that the rejection under 35 U.S.C. § 102(e) be withdrawn.

Above advanced arguments apply to the rejections of independent claims 11 and 21, which recite similar features.

CONCLUSION

For the reasons advanced above, Applicant respectfully request the withdrawal of the anticipation rejection of independent claims 1, 11, and 21 as well as the claims that depend therefrom.

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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